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Before the
 DISPATCHED BY Federal Communications Commission
 Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 99-167
Table of Allotments,)	RM-9391
FM Broadcast Stations.)	
(Mount Olive and Staunton, Illinois))	
)	

REPORT AND ORDER
 (Proceeding Terminated)

Adopted: November 22, 1999;

Released: October 1, 1999

By the Chief, Allocations Branch:

1. At the request of Talley Broadcasting Corporation ("petitioner"), permittee of Station WAOX((FM) (formerly WSTN-FM), Channel 287A, Mount Olive, Illinois, the Commission has before it the Notice of Proposed Rule Making, 14 FCC Rcd 7406 (1999), proposing the reallocation of Channel 287A from Mount Olive to Staunton, Illinois, and the modification of Station WAOX(FM)'s construction permit accordingly. Petitioner filed comments in support of the proposal reaffirming its intention to apply for the channel, if reallocated to Staunton. No other comments were received.

2. The proposed reallocation of Channel 287A from Mount Olive to Staunton was filed pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permit the modification of a station's license to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest. See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990) ("Change of Community"). As stated in the Notice, Staunton is an incorporated community with an elected mayor and aldermanic form of government. Staunton has its own web site, police and fire-fighting forces, hospital, library, Chamber of Commerce, school district, churches, banks, and a substantial number of local businesses. It also has its own post office and zip code. Lastly, Staunton is not located in or near an urbanized area.

3. In further support of its proposal, petitioner states that although the allotment would provide a first local service to either community, Mount Olive has a population of 2,126¹ persons, whereas Staunton has a population of 4,806 persons, more than twice the population of Mount Olive. Petitioner further states that the reallocation would not result in the removal of an existing service since the station is unbuilt, citing, Bagdad and Chino Valley, Arizona 61 F.R. 60043 (1996); Sanibel and San Carlos, Florida, 10 FCC Rcd 7215 (1995); Pawley's Island and Atlantic Beach, South Carolina, 8 FCC Rcd 8657 (1993); Glencoe and LeSueur, Minnesota, 7 FCC Rcd 7651 (1992). Petitioner asserts that the reallocation will result in a preferential arrangement of allotments since it would conform with FM allotment priorities by providing a first local service to Staunton, the larger of the two communities.

4. We believe the public interest would be served by reallocating Channel 287A from Mount Olive to Staunton, Illinois, as the community's first local aural transmission service, and modifying Station WAOX(FM)'s construction permit accordingly. Specifically, the reallocation would result in a preferential arrangement of allotments pursuant to the Commission's change of community procedures. See Change of Community, *supra*. Under those procedures, we compare the existing arrangement of allotments with the proposed arrangement of allotments using our FM allotment priorities.² See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 (1982). In making this analysis, we note that the allotment would provide a first local service to Staunton, the more populous community, which triggers priority (3). Since the station is unbuilt at Mount Olive, the reallocation would not result in the removal of an existing service. Moreover, petitioner does not seek to change its transmitter site, and the reallocation of Channel 287A to Staunton will create no gain or loss areas.

Technical Summary

5. An engineering analysis has determined that Channel 287A can be reallocated to Staunton in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction at petitioner's authorized construction permit site.³ In accordance with Section 1.420(i) of the Commission's Rules, we also modify Station WAOX(FM)'s construction permit to specify operation on Channel 287A at Staunton, Illinois, as its new community of license.

¹All population figures are taken from the 1990 U.S. Census.

²The FM allotment priorities are: (1) First full-time aural service; (2) Second full-time aural service; (3) First local service; and (4) Other public interest matters. [Co-equal weight given to priorities (2) and (3).]

³The coordinates for Channel 287A at Staunton are 39-02-37 North Latitude and 89-44-56 West Longitude.

6. Accordingly, pursuant to the authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective, November 15, 1999 the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Mount Olive, Illinois	---
Staunton, Illinois	287A

7. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the construction permit of Talley Broadcasting Corporation for Station WAOX(FM) at Mount Olive, Illinois, IS MODIFIED to specify operation on Channel 287A at Staunton, Illinois, as its new community of license, subject to the following conditions:

- (a) Nothing contained herein shall be construed as authorizing any change in Station WAOX(FM)'s construction permit, BPH-921125MF, except the channel as specified above. Any other changes, except for those so specified under Section 73.1690 of the Rules require prior authorization pursuant to an application for construction permit (FCC Form 301).
- (b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with construction permit BPH-921125MF, except for the channel as specified above and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

8. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, **if the request is granted**, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Talley Broadcasting Corporation, permittee of Station WAOX(FM), is required to submit a rule making fee in addition to the fee required for the application to effect the change in community of license.

9. IT IS FURTHER ORDERED, That the Secretary shall send a copy of this Report and Order by Certified Mail, Return Receipt Requested, to the following:

Talley Broadcasting Corporation
P.O. Box 10
Litchfield, Illinois 62056
(Permittee of Station WAOX(FM))

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning this proceeding, contact Sharon P. McDonald,
Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau